

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600

**Case No. A-5755**

**PETITION OF RICHARD J. DEIGAN**

(Hearing held May 15, 2002)

**OPINION OF THE BOARD**

(Effective date of Opinion, June 14, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(a). The petitioner proposes to construct a two-story addition that requires a 3.25 foot variance as it is within 11.75 feet of the side street setback (Tilbury Street). The required side street setback is fifteen (15) feet.

A. Vakalopoulos, an architect, represented the petitioner at the public hearing.

The subject property is Lot 24, Block C, Rosedale Park Subdivision, located at 8300 Tilbury Street, Bethesda, Maryland, in the R-60 Zone (Tax Account No. 00529096).

Decision of the Board: Requested variance **denied**.

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioner proposes to construct a 20.1 x 26.2 foot two-story addition in the in rear yard.
2. Mr. Vakalopoulos testified that the property is located at the intersection of Rosedale Avenue and Tilbury Street and that Tilbury Street in the property's eastern side yard. Mr. Vakalopoulos testified that the western side yard has a common driveway that is shared with Lot 25.
3. Mr. Vakalopoulos testified that the existing residence is located 12 feet from the eastern side lot line and that the proposed construction would follow the existing footprint of the house. Mr. Vakalopoulos testified that the topography of the lot slopes downward from front to rear and that the grade of the rear yard drops about 8 feet.

**FINDINGS OF THE BOARD**

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

*(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Board finds that the petitioner's property has no exceptional topographical or other conditions not shared with the neighboring properties. The Board further finds that the existing conditions of the lot do not prevent the siting of the proposed construction.

The variance request does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements for the grant of a variance set forth in that section. Accordingly, the requested variance of 3.25 feet from the required twelve (12) foot side street setback for the construction of a two-story addition is denied.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Louise L. Mayer, seconded by Donald H. Spence, Jr., Chairman, with Donna L. Barron, Angelo M. Caputo and Allison Ishihara Fultz, in agreement, the Board adopted the following Resolution.

---

Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 14th day of June, 2002.

---

Katherine Freeman  
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

